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Before the Court for consideration are the following fully briefed motions:

1. Defendant Gator Machinery Company, Inc.'s Motion to Dismiss Plaintiff's First Amended Complaint for Lack of Personal Jurisdiction and for Failure to State a Claim (Doc. #7);
2. Plaintiff's Counter Motion to Amend Complaint (Doc. #14); M 3.
3. Defendant Cosco Container Lines Americas, Inc.'s Limited Joinder in Gator Machinery Company, Inc.'s Motion to Dismiss (Doc. #16).

Having read and considered the foregoing, the Court finds that Plaintiff has failed to establish this Court's personal jurisdiction over Defendant Gator Machinery, and further that Plaintiff has failed to state a viable claim for relief against Defendant Gator Machinery. The Court further finds Plaintiff's claim for negligence per se should be dismissed for failure to state a claim upon which relief may be granted in accord with Rule 12(b)(6) of the Federal Rules of Civil Procedure.

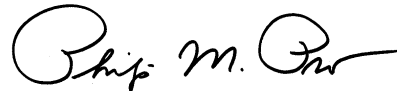
1 The Court further finds, however, that leave should be granted pursuant to Rule 15
2 of the Federal Rules of Civil Procedure to permit Plaintiff to amend his complaint
3 within thirty (30) days of the date of this order.

4 **IT IS THEREFORE ORDERED** that Defendant Gator Machinery
5 Company, Inc.'s Motion to Dismiss (Doc. #7) is **GRANTED** without prejudice.

6 **IT IS FURTHER ORDERED** that Defendant Cosco Container Lines
7 Americas, Inc.'s Motion to Dismiss Plaintiff's Claim for Negligence Per Se (Doc.
8 #16) is **GRANTED** without prejudice.

9 **IT IS FURTHER ORDERED** that Plaintiff's Counter Motion to Amend
10 Complaint (Doc. #14) is **GRANTED** to the extent that Plaintiff shall have thirty (30)
11 days from the date of this order within to file an amended complaint curing the
12 deficiencies identified by Defendants to the extent Plaintiff can do so.

13 DATED: August 9, 2010.

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15 PHILIP M. PRO
16 United States District Judge
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